

Update: Domestic Violence Benchbook (3rd ed)

CHAPTER 5

Evidence in Criminal Domestic Violence Cases

5.8 Expert Testimony on Battering and Its Effects

B. Michigan Cases Addressing Evidence of Battering and Its Effects

Effective October 1, 2006, 2006 PA 309 created the Self-Defense Act, MCL 780.971 to 780.974, and broadened the instances in which deadly force may be used to include the honest and reasonable belief that the use of deadly force is necessary to prevent imminent sexual assault.

Insert the following text in place of the **Note** near the middle of page 195:

Note: To establish self-defense, a defendant must honestly and reasonably believe either that the use of deadly force is necessary to prevent the imminent death of, or imminent great bodily harm to, himself or herself, or that the use of deadly force is necessary to prevent the imminent sexual assault of himself or herself. MCL 780.972.

CHAPTER 9

Statutory Firearms Restrictions in Domestic Violence Cases

9.5 Restrictions Arising from Conviction of a Felony

B. Michigan Restrictions on the Purchase or Possession of Firearms by Convicted Felons

Insert the following text after the last paragraph on page 404:

The Michigan Court of Appeals has also rejected a claim that MCL 750.224f, which makes it a crime for a convicted felon to possess a firearm, is unconstitutionally vague. See *People v Pierce*, ___ Mich App ___ (2006).

In *Pierce*, the defendant was convicted of breaking and entering a building. The defendant subsequently was charged with, and convicted of, being a felon in possession of a firearm pursuant to MCL 750.224f. *Pierce, supra* at _____. On appeal defendant argued that it was unclear whether breaking and entering a building was a “specified felony” for purposes of MCL 750.224f, and therefore argued that the statute was unconstitutionally vague. The Court of Appeals disagreed:

“... the ordinary and plain language of MCL 750.224f(6) provides, in clear and understandable terms, that a person who commits a felony involving ‘the use, attempted use or threatened use of force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used,’ is subject to the more stringent requirement for restoration firearms rights set forth in MCL 750.224f(2). Breaking and entering is a crime that clearly fits within the language. Therefore the statute provides adequate notice to persons of ordinary intelligence as to the conduct proscribed.” *Pierce, supra* at ____ [citation omitted].

Accordingly, the Court found that MCL 750.224(f) is not unconstitutionally vague. The Court, however, remanded the case to the trial court on another issue.